

**BOARD RESOLUTION ADOPTING THE COMPLIANCE REVIEW REPORT AND  
FINDINGS BY THE SPB COMPLIANCE REVIEW UNIT OF  
THE FAIR POLITICAL PRACTICES COMMISSION**

**WHEREAS**, the State Personnel Board (SPB or Board) at its duly noticed meeting of March 20, 2014, carefully reviewed and considered the attached Compliance Review Report of the Fair Political Practices Commission submitted by SPB's Compliance Review Unit.

**WHEREAS**, the Report was prepared following a baseline review of the Fair Political Practices Commission's personnel practices. It details the background, scope, and methodology of the review, and the findings and recommendations.

**NOW, THEREFORE, BE IT RESOLVED**, that the Board hereby adopts the Report, including all findings and recommendations contained therein. A true copy of the Report shall be attached to this Board Resolution and the adoption of the Board Resolution shall be reflected in the record of the meeting and the Board's minutes.



SUZANNE M. AMBROSE  
Executive Officer

# COMPLIANCE REVIEW REPORT

## FAIR POLITICAL PRACTICES COMMISSION

### FINDINGS AND RECOMMENDATIONS

#### MARCH 20, 2014

#### Examinations

During the period under review, from May 1, 2011 through October 31, 2012, the Fair Political Practices Commission (FPPC) conducted 18 examinations. The SPB reviewed 3 of those examinations, which are listed below:

Classification Title	Examination Type	Examination Component	No. of Eligibles
Political Reform Consultant I (PRC 1)	Promotional	Supplemental Questionnaire, Experience and Education (E&E) <sup>1</sup>	4
Political Reform Consultant II (PRC II)	Promotional	Supplemental Questionnaire, and E&E	1
Supervising Special Investigator II (SSI II)	Promotional	Qualifications Appraisal Panel (QAP) <sup>2</sup>	2

#### **FINDING NO. 1 – FPPC Did Not Conduct a Job Analysis for the Examinations Reviewed**

The Merit Selection Manual (MSM), which is incorporated in California Code of Regulations, title 2, section 50, mandates the development and use of a job analysis for the examination process. A "job analysis shall serve as the primary basis for demonstrating and documenting the job-relatedness of examination processes conducted for the establishment of eligible lists within the State's civil service." (MSM (Oct. 2003), § 2200, p. 2.) The MSM requires that job analyses adhere to the legal and professional standards outlined in the job analysis section of the MSM and that certain

<sup>1</sup> In an E&E examination, one or more raters scores and ranks applicants based upon the applicant's Standard 678 application form. The raters use a predetermined rating scale that includes years of relevant higher education, professional licenses or certifications, and/or years of relevant work experience.

<sup>2</sup> The QAP interview is the oral component of an examination whereby competitors appear before a panel of two or more evaluators. Candidates are rated and ranked against one another based on an assessment of their ability to perform in a job classification.

elements must be included in the job analysis studies. (*Ibid.*) Those requirements include the following: (1) that the job analysis be performed for the job for which the subsequent selection procedure is developed and used; (2) the methodology utilized be described and documented; (3) the job analytic data be collected from a variety of current sources; (4) job tasks be specified in terms of importance or criticality, and their frequency of performance; (5) and job tasks must be sufficiently detailed to derive the requisite knowledge, skills, abilities (KSAs), and personal characteristics that are required to perform the essential tasks and functions of the job classification. (MSM, § 2200, pp. 2-3.)

FPPC indicated it had determined the examination questions by conducting an informal job analysis that involved considering the KSAs of each classification and conferring with a single subject matter expert for each exam. FPPC declined to provide the SPB with evidence of the work that was performed in the development of each of the three exams, including a summary of their KSA analysis, and the conclusions they made in order to select the type and questions of each exam. Consequently, the SPB is unable to determine if the three examinations the FPPC administered were developed utilizing the procedures required by the MSM.

Classification	List Active Date	List Expiration Date	No. of Eligibles	No. of Vacant Positions
Political Reform Consultant I	8/1/2011	8/1/2012	3	0
Political Reform Consultant II	8/1/2011	9/1/2012	2	2
Supervising Special Investigator II	9/14/2011	9/14/2012	1	0

Since all of the examinations lists reviewed during the compliance review period have expired, SPB is not recommending that FPPC abolish the lists. However, prior to FPPC administering any future examinations, FPPC must create and develop the examinations in accordance with the requirements of the MSM.

Furthermore, the Compliance Review Division (CRD) finds the appointments that were made from the examinations that were administered without a Job Analysis were made in good faith, more than a year old, and did not merit being voided.

### Appointments

During the compliance review period, FPPC made 28 appointments. The SPB reviewed 20 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	No. of Appointments
Administrative Assistant, FPPC	Certification List	Permanent	1
Associate Information Systems Analyst (Specialist)	Certification List	Permanent	1
Associate Programmer Analyst (Specialist)	Certification List	Permanent	1
Political Reform Consultant I, FPPC	Certification List	Permanent	2
Political Reform Consultant II, FPPC	Certification List	Permanent	1
Special Investigator	Certification List	Limited Term	3
Special Investigator	Certification List	Permanent	2
Staff Programmer Analyst (Specialist)	Certification List	Permanent	1
Associate Governmental Program Analyst, FPPC	Transfer	Permanent	1
Attorney IV	Transfer	Limited Term	1
Political Reform Consultant I, FPPC	Transfer	Permanent	1
Staff Services Analyst, FPPC	Transfer	Permanent	3
Staff Services Analyst (SSA)	Permissive Reinstatement	Permanent	1
Technical Assistant II (TA II)	Permissive Reinstatement	Permanent	1

## **FINDING NO. 2 – FPPC Properly Complied with Civil Service Laws and Board Rules for All the Reviewed Appointments**

In all cases not excepted or exempted by Article VII of the California Constitution, the appointing power must fill positions by appointment, including cases of transfers, reinstatements, promotions, and demotions in strict accordance with the Civil Service Act and Board rules. (Gov. Code, § 19050.) Except as provided by law, appointments to vacant positions shall be made from employment lists. (*Ibid.*) Appointments made from eligible lists, by way of transfer, or by way of reinstatement, must be made on the basis of merit and fitness, which requires consideration of each individual's job-related qualifications for a position, including his or her knowledge, skills, abilities, experience, and physical and mental fitness. (Cal. Code Regs., tit. 2, § 250, subd. (a).)

In addition, departments are required to have recruitment strategies designed to be "as broad and inclusive as necessary to ensure the identification of an appropriate candidate group." (MSM, § 1100, p. 1100.2 (Oct. 2003); Cal. Code Reg., tit. 2, § 50.) Generally, the typical steps a department takes after determining that approval to fill a vacant position has been secured include: determining whether there is an eligible list for the classification in which the vacancy exists; determining whether an eligible list is necessary to fill the vacancy; advertise the vacancy, which may include certifying the eligible list; receive applications, and if no applications are received, re-advertise the position with increased recruitment efforts; screen applications to determine which candidates meet minimum qualification requirements and are eligible for appointment; and conduct hiring interviews. (MSM, § 1200, pp. 1200.7-1200.8; Cal. Code Reg., tit. 2, § 50.)

FPPC properly advertised all the positions that were reviewed by the SPB.

For the 12 list appointments, FPPC ordered a certification list of candidates and properly cleared any reemployment and SROA<sup>3</sup> candidates. FPPC interviewed eligibles who were reachable within the first three ranks of the certification list and hired the best suited candidates. Regarding the six transfer appointments, FPPC verified the transfer

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<sup>3</sup> The State Restriction of Appointments (SROA) Program is intended to prevent the layoff and separation of skilled and experienced employees from State service. The SROA Program assists in placing affected employees by temporarily restricting the methods of appointment available to appointing powers. Employees on SROA lists are granted preferential consideration over all other types of appointments except appointments from reemployment lists and mandatory reinstatements.

eligibility of the candidate to the appointed class. Accordingly, as to those appointments, FPPC complied with civil service laws and Board rules.

Civil service laws also allow permissive reinstatements but only in certain circumstances. An appointing power may, in his or her discretion, reinstate any person having probationary or permanent status who was separated from his or her position by: (1) resignation; (2) service retirement; (3) termination from limited-term, temporary, career executive assignment, or exempt appointment; (4) absence without leave, as defined; or (5) without a break in continuity of state service to accept another civil service or exempt appointment. (Gov. Code, § 19140.)

Before making the SSA appointment by way of permissive reinstatement, FPPC verified that the employee had previous permanent civil service status as an SSA for FPPC before resigning in 2007. FPPC also verified that the employee appointed to the TA II position had previous permanent status in a position with comparable duties and responsibilities at another department before resigning in 2006. FPPC conducted hiring interviews for both positions. Thus, for both permissive reinstatement appointments, FPPC properly exercised its discretion pursuant to civil service laws and rules.

The law requires that "limited term appointments shall be made only for temporary staffing needs and shall not individually or consecutively exceed one year, provided that the Board may authorize limited term appointments of up to a total of two years' duration when a permanent appointment would be likely to cause a layoff, demotion, or mandatory transfer requiring a change of residence upon the conclusion of the temporary staffing need." (Gov. Code, § 19080.3.) Such appointments may be made from certification lists, by transfer, or through permissive reinstatement from the same or similar classification.

The Special Investigator and Attorney IV limited-term appointments were made for temporary staffing needs. FPPC ensured that the duration of those appointments did not individually or consecutively exceed one year. Additionally, FPPC notified the employees in writing of their separation from the positions. (Cal Code Regs., tit. 2, § 282). Those appointments thus complied with civil service laws and Board rules.



### Equal Employment Opportunity (EEO)

The SPB reviewed FPPC's EEO policies, procedures, and program that were in effect during the compliance review period. In addition, the SPB communicated with appropriate FPPC staff.

#### **FINDING NO. 3 – FPPC's EEO Officer Does Not Report Directly to the Executive Director**

The appointing power for each state agency has the major responsibility for monitoring the effectiveness of its EEO program. (Gov. Code, § 19794.) To that end, the appointing power must issue a policy statement committed to equal employment opportunity; issue procedures for filing, processing, and resolving discrimination complaints; issue procedures for providing equal upward mobility and promotional opportunities; and cooperate with the California Department of Human Resources by providing access to all required files, documents and data. (*Ibid.*) In addition, the appointing power must appoint, at the managerial level, an EEO officer, who *shall* report directly to, and be under the supervision of, the director of the department to develop, implement, coordinate, and monitor the department's EEO program. (Gov. Code, § 19795.) In a state agency with fewer than 500 employees, like FPPC, the EEO officer may be the Personnel Officer. (*Ibid.*)

Further, each state agency shall establish a separate committee of employees who are individuals with a disability, or who have an interest in disability issues, to advise the head of the agency on issues of concern to employees with disabilities. (*Ibid.*) The department must invite all employees to serve on the committee and take appropriate steps to ensure that the final committee is comprised of members who have disabilities or who have an interest in disability issues. (Gov. Code, § 19795, subd. (b)(2).)

FPPC's EEO policies, procedures, and programs that were in effect during the compliance review period provided employees with guidance on the EEO process including instructions on how to file discrimination claims. The EEO policy also outlines the roles and responsibilities of the EEO Officer, as well as supervisors and managers. FPPC provided evidence showing its efforts to promote equal employment opportunity in its hiring and employment practices, to increase its hiring of persons with disabilities, and to offer upward mobility opportunities for its entry-level staff. FPPC's documentation included setting upward mobility and hiring goals for persons with disabilities for the upcoming year. In addition, FPPC established a Disability Advisory

Committee (DAC) that meets regularly with the Executive Director to report on disability issues.

Those components of FPPC's EEO program comply with civil service laws and Board rules. A deficiency, however, was found in the EEO Officer's reporting structure. FPPC's EEO Officer, who also serves as the agency's Personnel Officer, reports to the Division Chief of the Administration Division but does not report directly to the Executive Director on EEO matters.

To ensure compliance with EEO laws, the duty statement of the appointed EEO Officer must be revised to establish a direct reporting relationship between the Executive Director and the EEO Officer with regard to the position's EEO responsibilities. It is thus recommended that within 60 days of the Board's Resolution adopting these findings and recommendations FPPC submit to the Board a written report of compliance that includes a copy of the revised duty statement of the appointed EEO Officer.

### **DEPARTMENTAL RESPONSE**

The FPPC was provided a copy of the initial report to review. A copy of FPPC's response is attached as Attachment 1.

### **SPB REPLY**

Based upon FPPC's written response, FPPC will develop job analyses for all future examinations. The FPPC will also ensure that the EEO officer reports directly to the Executive Director.

It is recommended that FPPC comply with the afore-stated recommendations within 60 days of the Board's Resolution and submit to the SPB a written report of compliance.

The SPB appreciates the professionalism and cooperation of FPPC during this compliance review.





STATE OF CALIFORNIA  
FAIR POLITICAL PRACTICES COMMISSION  
428 J Street • Suite 620 • Sacramento, CA 95814-2329  
(916) 322-5660 • Fax (916) 322-0886

February 3, 2014

Attachment 1

Michael Brunette  
Compliance Review Division  
State Personnel Board  
801 Capitol Mall  
Sacramento, California 95814

Dear Mr. Brunette,

On January 24, 2014 I received the Fair Political Practices Commission's Compliance Review Report dated March 3, 2014.

Finding No. 1 – FPPC did not conduct a Job Analysis for the Examinations Reviewed

The FPPC is a small agency with limited exam resources. However, we have taken note of these Findings and will comply in the event of future exam planning.

Finding No. 2 – FPPC Properly Complied with Civil Service Laws and Board Rules for All the Reviewed Appointments

Finding No. 3 – FPPC's EEO Officer Does Not Report Directly to the Executive Director

Per the report recommendation, attached is the duty statement for the Staff Services Manager I, Personnel Officer. The duty statement reflects the Fair Political Practices Commission Personnel Officer's EEO Officer duties as reporting directly to the FPPC Executive Director.

Please let me know if you need further information regarding these findings.

Thank you.

Gail Ziese  
Personnel Officer  
Fair Political Practices Commission  
916-322-5660

Attachment

**Fair Political Practices Commission**  
**Duty Statement**

Position #: 325-001-4800-002  
Employee Name:  
Appointment Date:

**JOB DESCRIPTION:**

**I. Position Identification**

Classification: Staff Services Manager I  
Working Title: Personnel Officer  
Division: Administration  
Position Number: 325-001-4800-002  
Location: Sacramento  
License or Other Requirement: None  
Work Hours/Shift:

Time Base		Days	Hours
Full Time	X	M-T-W-Th-F	Start 8 am
Part Time (    %)			End 5 pm

**Function:**

Under general direction of the Administration Division Chief and the Executive Director, this position serves as the Fair Political Practices Commission's (FPPC) Personnel Officer with supervisory responsibilities over administrative analytical staff. The Staff Services Manager I position is responsible for the management, coordination and direction of all human resources functions (Personnel, Labor Relations, Health and Safety), and civil rights services to the FPPC. This position requires a thorough and detailed knowledge of Federal and State laws, departmental and control agency rules and regulations pertaining to all of Human Resource areas. The position serves as the EEO Officer for the FPPC. The position provides analysis and recommendations to executive management on sensitive issues and serves in the acting role in the absence of the Division Chief.

**Reporting Relationship:**

Reports directly to: Administration Division Chief and Executive Director

**Supervises:**

Staff Services Analyst 1

**II. Program Identification**

The Mission of the FAIR POLITICAL PRACTICES COMMISSION is to promote the integrity of representative state and local government in California through fair, impartial interpretation and enforcement of political campaign, lobbying, and conflict of interest laws.

The Mission of the Administration Division is to manage the FAIR POLITICAL PRACTICES COMMISSION budget, business services, accounting, data processing, office systems, personnel and special projects.

### **III. Essential and Non-Essential Job Functions**

#### **Essential Functions:**

Candidates must be able to perform the following functions with or without reasonable accommodations.

- 40% Plans, organizes, and leads the Commission's Personnel, Examinations, Classification and Pay, and Civil Rights functions including supervision of staff performing personnel functions. Responsible for labor relations functions including ensuring timely responses to grievances, implementing Memorandum of Understanding provisions, participating in the negotiation of bargaining agreements and assisting management on labor contract issues. Reviews State Controller's (SCO), State Personnel Board (SPB) and California Human Resources (CalHR) reports to assure departmental compliance. As the Personnel Officer, the incumbent ensures the development of systems and policies related to personnel management; oversees all personnel transaction related activities; oversees FPPC's position control for authorized positions; assigns and evaluates projects of personnel unit staff; sets deadlines and ensures that work is completed within agreed-upon timelines; oversees the Commission's delegated and decentralized examination and selection program. Performs specialized management assessments of sensitive issues. Responsible for writing justifications for position changes/upgrades. Manages and oversees the Return to Work and Worker's Compensation Programs. Interprets and advises management on Federal Labor code, SPB and CalHR laws and rules related to services provided by the Personnel Unit.
- 20 % Reporting directly to the Executive Director on all Equal Employment Opportunity (EEO) program issues, the Personnel Officer oversees the EEO program, develops and implements program goals and objectives with State and federal requirements; participates in the development and oversees implementation of policies and programs related to employment diversity, discrimination complaints, and harassment; and advises managers, supervisors, and employees on rules, regulations, and policies relating to EEO.
- 20% Represents the Commission with control agencies, other State departments and outside public and private organizations. Position is Deputy Chief, Administration Division and acts as Administration Division Chief in the absence of the Chief.
- 15% Personally performs the most sensitive and complex personnel and management program related projects for either the Executive Director or the Commission; provides

**Fair Political Practices Commission**  
***Duty Statement***

Position #: 325-001-4800-002

Employee Name:

Appointment Date:

consultation services to executive and management staff in resolving sensitive, confidential and complex human resource problems and issues, including activities to assure that personnel/civil rights practices are equitable and free of discrimination.

- 3% Researches, develops and implements plans for re-engineering of the Personnel Office to assist FPPC with its stated mission and vision. Reviews and develops policies and procedures on an annual basis or as needed.
- 2% Keeps abreast of changes in laws and rules, precedential decisions associated with the Human Resources and assures compliance and implementation as required. Other duties as required.

**Non-Essential Functions:**

Special Requirements:  
None

**IV. Professional Attributes:**

In addition to the above, the incumbent possesses the willingness and ability to:

- Get along with others
- Maintain professional and confidential relationships with customers and co-workers
- Communicate effectively with customers and co-workers
- Accept direction from supervisor/lead person
- Abide by work rules
- Accept constructive criticism
- Work effectively within a team environment

**V. ADA Requirement**

Alternatives will be provided for incumbents who are unable to perform the non-essential functions of the job due to a disability covered under the Americans with Disabilities Act.

**VI. Physical Requirements:**

Ability to: operate a computer/keyboard, printer, copy machine, telephone.

**VII. Mental Requirements:**

Ability to:  
meet tight timelines/deadlines under stress  
maintain organized filing  
maintain confidentiality of employees and projects

**VIII. Working Conditions:**

The duties of this position are performed indoors 100% of the time. The employee's workstation is located on the 6th floor in the Administration Division and is equipped with standard or ergonomic office equipment as appropriate.

**IX. Attendance:**

Must maintain regular and acceptable attendance at such level as is determined in the Department's sole discretion.

Must be regularly available and willing to work the hours the Department determines are necessary or desirable to meet its business needs.

**X. Signature:**

By signing this document, I acknowledge that I have read and understand all the requirements and information above and will receive a copy of this job description.

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Employee Signature\*

Date

Supervisor Signature

Date

\*Duties of this position are subject to change and may be revised as needed or required.